

IN THE HIGH COURT OF INDIA AT ERNAKULAM

Present:

The honourable Mr. Justice V. Khaliq

Wednesday the 23rd January, 1980/3rd Magha, 1901

S.A.No.34 of 1980E

f-8375/78 Sub Court, Trivandrum

A.S.737/77 of District court, Trivandrum

O.S.256 of 1973 of Munsiff court, Neyyattinkara

appellant - appellant - plaintiff

Parvathy Pillai Kamalamma Pillai, Vettamangalathu
Kunnetbuvilakathu Bungalow, Maranallor-desom
and village

by Sri P.Gopalakrishnan Nair

respondents - respondents - defendants

1. Kunjan Nadar Kuttan Nadar, Kalluvilakathu Puthen
veedu, Thalayal desom, Pallichal village
2. Kunjan Nadar Umni Nadar of do
3. Kunjan Nadar Arjunan Nadar of do
4. Marilan Nadar Govindan Nadar, Veliyavilakathu
Edavazhiyarkathu veedu, Thalayal desom,
Pallichal.
5. Ummini Nadar Ponnian Nadar, Ayaniyarathala
Kizhakkarikathu veedu, do desom
6. Ummini Nadar, C/o Sukumaran Nadar, Plevilakathu
Nadathattu veedu, do desom
7. Kochukrishnan Nadar Lekshmanan Nadar, Thekkekal
vilakam puthen veedu, do desom
8. Raman Nadar Janardhanan Nadar, Veliyavilakathu
Vedakkathu Veedu, do desom
9. Lekshmi Pillai Chellamma Pillai, Nedungottukonath
Pandaravila Mela puthen veedu, Pallichal desom
10. Krishna Pillai Sasidharan Nair, Pandaravilakathu
Mela puthen veedu, do desom
11. Nelakantan Kunjukrishnan, Kundarathalakal veedu of do
12. Thomas Wilson, Pandaravila Kizhakkethittu purayil
Pallichal, desom

13. Kochan Johnson of do

14. John Thomson, Palottukonam Edavilakattu Puthen
veedu of do

This second appeal having come up for
admission on 23-1-80 the court on the same day de-
livered the following:

JUDGMENT

The question of law pressed in this second
appeal is that the courts below grossly erred in
relying upon Ex-B5 order in non-suiting the plaintiff.
That is an order passed by the concerned authority
under sec.29 of the K.L.R. Act. It is stated that
the said order was passed without impleading the
plaintiff. The order is said to be bad for this
reason and for violation of natural justice. The
contesting defendants put forward a case of tenancy
based on Ex-B5. This plea of tenancy was referred
to the land tribunal who returned a finding in favour
of the respondents. This was confirmed in appeal.
The plea of the counsel is that a decree for redemption
should be passed ignoring Ex-B5. There is no plea
in the suit to set aside Ex-B5 on any grounds known
to law. According to me it will be highly improper
and irregular to pass a decree ignoring Ex-B5. The
plaintiff's remedy is to get Ex-B5 declared
inoperative and not binding on him in appropriate

proceedings. I am not satisfied that any substantial question of law arises in this second appeal.

Dismissed.

23-1-80

sd/-V.Khalid (Judge)

true copy

Conferred by
V.K. Khaliq
A.D. Subbarao

Asst. Registrar

20-2-90